

1 BILL NO. S-82-09-18

2 SPECIAL ORDINANCE NO. S-172-82

3 AN ORDINANCE approving Improvement
4 Resolution No. 5927-82, Northwest
5 Central Neighborhood, Phase VI, with
6 Rieth-Riley Construction Company, Inc.,
7 in connection with the Board of Public Works.

8 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
9 FORT WAYNE, INDIANA:


10 SECTION 1. That a certain Contract dated August 4,
11 1982, between the City of Fort Wayne, Indiana, by and through its
12 Mayor and the Board of Public Works and Rieth-Riley Construction
13 Company, Inc., for:

14 the construction of curbs and sidewalks where
15 necessary on: Second Street, both sides from
16 the alley east of Wells Street to Harrison
17 Street; Third Street, both sides from the
18 alley east of Wells Street to Calhoun Street;
19 Fourth Street, both sides from the alley east
20 of Wells Street to the alley east of Harrison
21 Street; Fifth Street, both sides from the alley
22 east of Wells Street to Harrison Street; Sixth
23 Street, both sides from the alley east of
24 Wells Street to Harrison Street; Huffman Street,
25 south side only from the first alley east of
26 Short Street to the first drive west of
27 Wells Street; and Cass Street, both sides from
28 Second Street to Sixth Street;


29 under Board of Public Works Improvement Resolution No. 5927-82,
30 involving a total cost of One Hundred Thirty-Nine Thousand
31 Eight Hundred Sixty-Nine and 65/100 Dollars (\$139,869.65), all
32 as more particularly set forth in said Resolution and Contract
which is on file in the Office of the Board of Public Works and
is by reference incorporated herein, made a part hereof and is
hereby in all things ratified, confirmed and approved. Two copies
of said Contract are on file in the Office of the City Clerk and
made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force
and effect from and after its passage and any and all necessary
approval by the Mayor.

1 Page Two

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4 
Councilmember

5 APPROVED AS TO FORM
6 AND LEGALITY

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8 Bruce O. Boxberger, City Attorney
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Read the first time in full and on motion by Stier, seconded by Eastwick, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on , the day of , 19 , at o'clock .M., E.S.T.

DATE: 9-17-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Stier, seconded by Eastwick, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>BRADBURY</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>BURNS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>EISBART</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>GIAQUINTA</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHMIDT</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHOMBURG</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCRUGGS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>STIER</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>TALARICO</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

DATE: 9-28-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)

(APPROPRIATION) ORDINANCE (RESOLUTION) NO. S-172-82
on the 28th day of September, 19 82

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of September, 19 82, at the hour of 11:30 o'clock 7 .M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 4th day of October, 19 82, at the hour of 10 o'clock A .M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

BILL NO. S-82-09-18

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN
ORDINANCE approving Improvement Resolution No. 5927-82,
Northwest Central Neighborhood, Phase VI, with Rieth-Riley Construction
Company, Inc., in connection with the Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

JAMES S. STIER, CHAIRMAN

BEN A. EISBART, VICE CHAIRMAN

VICTURE L. SCRUGGS

MARK E. GIAQUINTA

DONALD J. SCHMIDT

John
B. A. Adams
V. L. Scruggs
Mark E. Giaquinta
D. J. Schmidt

5-28-82
CONCURRED IN
DATE CHARLES W. WESTERMAN, CITY CLERK

72-56-14
8/4/82

Concrete Removal	One dollar and ninety cents per square yard	1.90
Curb Removal	No dollars and ninety cents per lineal foot	0.90
4" Sidewalk	One dollar and thirty-five cents per square foot	1.35
6" Wingwalk	One dollar and ninety cents per square foot	1.90
Remove & Replace Type I-C C.B. w/Casting	Twelve hundred and forty dollars and no cents per each	1,240.00
Type III Curb	Five dollars and no cents per lineal foot	5.00
Adjust Casting	Fifty dollars and no cents per each	50.00
6" Drive Approach	Fifteen dollars and no cents per square yard	15.00
8" Drive Approach	Nineteen dollars and no cents per square yard	19.00
Backfill for Seed	Three dollars and no cents per ton	3.00
Seed, Mulch & Fertilizer	No dollars and twenty-five cents per square yard	0.25

Asphalt Patching	Twenty-eight dollars and no cents per ton	28.00
SUB TOTAL	One hundred and three thousand, one hundred and forty-five dollars and fifty cents	\$103,145.50
ALTERNATE ***** (Cass St.)		
Concrete Removal	One dollar and ninety cents per square yard	1.90
4" Sidewalk	One dollar and thirty-five cents per square foot	1.35
6" Drive Approach	Fifteen dollars and no cents per square yard	15.00
Curb Removal	No dollars and ninety cents per lineal foot	0.90
Type III Curb	Five dollars and no cents per lineal foot	5.00
Backfill for Seed	Three dollars and no cents per ton	3.00
Seed, Mulch, Fertilizer	No dollars and twenty-five cents per square yard	0.25
Remove & Replace Type I-C CB w/Casting	Twelve hundred and forty dollars and no cents per each	1,240.00
Asphalt Patching	Twenty-eight dollars and no cents per ton	28.00
SUB TOTAL ALTERNATE	Thirty-six thousand, seven hundred and twenty-four dollars and fifteen cents	\$36,724.15
GRAND TOTAL	One hundred and thirty-nine thousand, eight hundred and sixty-nine dollars and sixty-five cents	\$139,869.65

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5927-82 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally

and in all respects completed on or before Aug. 30, 1982 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said

date _____, 19____, until said work is finally completed and ready for acceptance by the City.

It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 4th

day of August, 1982; signed and sealed as follows:

ATTEST:

Donald E. Atkins
Corporate Secretary
Ass't.

BY: Ross J. Cole

ITS: Area Supt.
Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

ATTEST:

Sandra E. Kennedy
Secretary and Clerk

Its Board of Public Works and Mayor.

Al Smoroff
ASSOCIATE CITY ATTORNEY

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we RIETH-RILEY CONSTRUCTION CO., INC.
as Principal, and the United Pacific Insurance Company

_____, a corporation organized under the laws of the
State of Washington, and duly authorized to transact business in the
State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne,
Indiana, an Indiana Municipal Corporation in the sum of ONE HUNDRED AND THIRTY-NINE
THOUSAND, EIGHT HUNDRED AND SIXTY-NINE DOLLARS AND SIXTY-FIVE CENTS -----

(\$ 139,869.65-----), for the payment whereof well and truly to be made,
the Principal and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents. The
condition of the above obligation is such that

WHEREAS, the Principal did on the 4 day of Aug, 1982,
enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5927-82

curbs and sidewalks, where needed, on the following streets:

- (1) Second St. - Both sides, from the alley east of Wells St. to Harrison St.;
- (2) Third St. - Both sides, from the alley east of Wells St. to Calhoun St.;
- (3) Fourth St. - Both sides, from the alley east of Wells St. to the alley east of
Harrison St.;
- (4) Fifth St. - Both sides, from the alley east of Wells St. to Harrison St.;
- (5) Sixth St. - Both sides, from the alley east of Wells St. to Harrison St.;
- (6) Huffman St. - South side only, from the first alley east of Short St. to the
first drive west of Wells St. **

Also known as NORTHWEST CENTRAL NEIGHBORHOOD, PHASE VI.

** (7) Cass St. - Both sides, from Second to Sixth St.

at a cost of \$ 139,869.65-----, according to certain plans and specifications
prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement
provides:

1. That said improvement shall be completed according to said plans and
specifications, and contractor shall warrant and guarantee all work, mater-
ial, and conditions of the improvement for a period of three (3) years from
the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after comple-
tion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifica-
tions, and repairs as required by the City within thirty (30) days after
notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees, that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

RIETH-RILEY CONSTRUCTION COMPANY, INC.

(Contractor)

BY:

Ron J. Cole

ITS:

Asst. Supt

ATTEST:

Donald E. Atkins

Asst. Secretary

(Title)

United Pacific Insurance Company
Surety

*BY

Leonard C. Northrup, C.P.C.
Authorized Agent Leonard C. Northrup
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

ATTACH POWER OF ATTORNEY

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- RIETH-RILEY CONSTRUCTION COMPANY, INC. -----

(Name of Contractor)

----- 1633 S.R. 327 North County Line Road, Huntertown, Indiana 46748 -----

(Address)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and United Pacific Insurance Company

(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of ONE HUNDRED AND THIRTY-NINE THOUSAND, EIGHT HUNDRED AND SIXTY-NINE DOLLARS AND SIXTY-FIVE CENTS -----
for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 4 day of Aug, 19 82, for the construction of:
Improvement Resolution No. 5927-82

Curbs and sidewalks, where needed, on the following streets:

- (1) Second St. - Both sides, from the alley east of Wells St. to Harrison St.;
- (2) Third St. - Both sides, from the alley east of Wells St. to Calhoun St.;
- (3) Fourth St. - Both sides, from the alley east of Wells St. to the alley east of Harrison St.;
- (4) Fifth St. - Both sides, from the alley east of Wells St. to Harrison St.;
- (5) Sixth St. - Both sides, from the alley east of Wells St. to Harrison St.;
- (6) Huffman St. - South side only, from the first alley east of Short St. to the first drive west of Wells St. **

Also known as NORTHWEST CENTRAL NEIGHBORHOOD, PHASE VI.

** (7) Cass St. - Both sides, from Second to Sixth St.

at a cost of ONE HUNDRED AND THIRTY-NINE THOUSAND, EIGHT HUNDRED AND SIXTY-NINE DOLLARS AND SIXTY-FIVE CENTS -----
(\$ 139,869.65 -----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in _____ counter-
parts, each one of which shall be deemed an original, this _____ (number) _____ day of _____, 1979.

(SEAL)

ATTEST:

Donald E. Atkins
(Principal) Secretary
Asst.

RIETH-RILEY CONSTRUCTION COMPANY, INC.
Principal

BY Loss J. Cole
Area Supt.
(Title)

(Address)

Witness as to Principal

(Address)

United Pacific Insurance Company
Surety
BY Leonard E. Northrup, Jr.
Attorney-in-Fact
(Authorized Agent)

P.O. Box 523

Goshen, IN 46526

(Address)

Witness as to Surety

(Address)

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

UNITED PACIFIC INSURANCE COMPANY

HOME OFFICE, TACOMA, WASHINGTON

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, That the UNITED PACIFIC INSURANCE COMPANY, a corporation duly organized under the laws of the State of Washington, does hereby make, constitute and appoint Leonard E. Northrup of Goshen, Indiana

its true and lawful Attorney-in-Fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed any and all bonds and undertakings of Suretyship,

and to bind the UNITED PACIFIC INSURANCE COMPANY thereby as fully and to the same extent as if such bonds and undertakings and other writings obligatory in the nature thereof were signed by an Executive Officer of the UNITED PACIFIC INSURANCE COMPANY and sealed and attested by one other of such officers, and hereby ratifies and confirms all that its said Attorney(s)-in-Fact may do in pursuance hereof.

This Power of Attorney is granted under and by authority of Article VII of the By-Laws of UNITED PACIFIC INSURANCE COMPANY which became effective September 7, 1978, which provisions are now in full force and effect, reading as follows:

ARTICLE VII - EXECUTION OF BONDS AND UNDERTAKINGS

1. The Board of Directors, the President, the Chairman of the Board, any Senior Vice President, any Vice President or Assistant Vice President or other officer designated by the Board of Directors shall have power and authority to (a) appoint Attorneys-in-Fact and to authorize them to execute on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (b) to remove any such Attorney-in-Fact at any time and revoke the power and authority given to him.

2. Attorneys-in-Fact shall have power and authority, subject to the terms and limitations of the power of attorney issued to them, to execute and deliver on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof. The corporate seal is not necessary for the validity of any bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

3. Attorneys-in-Fact shall have power and authority to execute affidavits required to be attached to bonds, recognizances, contracts of indemnity or other conditional or obligatory undertakings and they shall also have power and authority to certify the financial statement of the Company and to copies of the By-Laws of the Company or any article or section thereof.

This power of attorney is signed and sealed by facsimile under and by authority of the following Resolution adopted by the Board of Directors of UNITED PACIFIC INSURANCE COMPANY at a meeting held on the 5th day of June, 1979, at which a quorum was present, and said Resolution has not been amended or repealed:

"Resolved, that the signatures of such directors and officers and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached."

Asst.

IN WITNESS WHEREOF, the UNITED PACIFIC INSURANCE COMPANY has caused these presents to be signed by its Vice President, and its corporate seal to be hereto affixed, this 12th day of September 1980.

UNITED PACIFIC INSURANCE COMPANY

Asst. Vice President

STATE OF Pennsylvania
COUNTY OF Philadelphia

} ss.



On this 12th day of September, 1980, personally appeared W. F. Brunner

to me known to be the Vice-President of the UNITED PACIFIC INSURANCE COMPANY, and acknowledged that he executed and attested the foregoing instrument and affixed the seal of said corporation thereto, and that Article VII, Section 1, 2, and 3 of the By-Laws of said Company, and the Resolution, set forth therein, are still in full force.

My Commission Expires:

May 7, 1984



Notary Public in and for State of Pennsylvania

Residing at Philadelphia

I, P. D. Crossetta, Assistant Secretary of the UNITED PACIFIC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said UNITED PACIFIC INSURANCE COMPANY, which is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Company this

day of

19

Assistant Secretary

TITLE OF ORDINANCE Improvement Resolution 5927-82, Northwest Central Neighborhood, Phase 1

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

8-82-09-18

SYNOPSIS OF ORDINANCE Contract between the City of Fort Wayne and Rieth-Riley

Construction Company, Inc. for the construction of curbs and sidewalks, where needed on the following streets: Second St. both sides, from the alley east of Wells St. to Harrison St.; Third St. both sides, from the alley east of Wells St. to Calhoun St.; Fourth St. both sides, from the alley east of Wells St. to the alley east of Harrison St.; Fifth St. both sides, from the alley east of Wells St. to Harrison St.; Sixth St. both sides, from alley east of Wells St. to Harrison St.; Huffman St. south side only, from the first alley east of Short St. to the first drive west of Wells St.; and Cass St. both sides, from Second to Sixth St.

Prior approval received July 6, 1982

EFFECT OF PASSAGE improvement of Northwest Central Neighborhood

EFFECT OF NON-PASSAGE curbs and sidewalks left in deteriorating condition

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) CD&P PROJECT \$139,869.65

ASSIGNED TO COMMITTEE